

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

FILED
U.S. DISTRICT COURT
EVANSVILLE DIVISION

2015 JAN -7 PM 1:03

SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

ROBIN COLLINS,

Plaintiff,

vs.

COMENITY LLC

d/b/a Comenity Bank,

Defendant.

No.

1:15-CV-28-RLY-MJD

COMPLAINT

COMES NOW Plaintiff, ROBIN COLLINS ("Plaintiff"), by and through her attorneys, KROHN & MOSS, LTD., and for Plaintiff's Complaint against Defendant, COMENITY LLC d/b/a Comenity Bank ("Defendant"), alleges and affirmatively states as follows:

INTRODUCTION

1. Plaintiff's Complaint arises under the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227 *et seq.*

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 28 U.S.C. § 1331 and 47 U.S.C. § 227.

3. Venue is proper pursuant to 28 U.S.C. 1391(b)(1) as the conduct giving rise to this action occurred in this district, as Plaintiff resides in this district and Defendant transacts business in this district.

PARTIES

4. Plaintiff is a natural person at all times relevant residing in Pendleton, Indiana, Madison County.

5. Defendant is a business entity incorporated in Delaware and headquartered in

Columbus, Ohio.

6. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers

FACTUAL ALLEGATIONS

7. In 2014, Defendant began placing telephone calls to (317) 625-57xx, Plaintiff's cellular telephone.

8. Defendant's calls were for a non-emergency purpose.

9. Defendant used multiple phone numbers to call Plaintiff.

10. Upon information and good faith belief, based on the frequency, number, nature and character of these calls, Defendant used an automatic telephone dialing system or other equipment capable of storing and/or producing telephone numbers ("auto dialer") to call Plaintiff.

11. Shortly after she started receiving Defendant's call, but before July 27, 2014 and on more than one occasion, Plaintiff instructed Defendant to stop calling her.

12. Plaintiff revoked any consent, actual or implied, for Defendant to use an auto dialer to call her cell phone.

13. Defendant continued to use an auto dialer to call Plaintiff's cell phone.

14. Since July 27, Defendant used an auto dialer to call Plaintiff's cell phone at least five hundred three (503) times.

15. Defendant use of an auto dialer was with its knowledge, willful, voluntary, and intentional.

16. Defendant did not have Plaintiff's express consent to use an auto dialer to call her cell phone on or after July 27, 2014.

COUNT I
DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

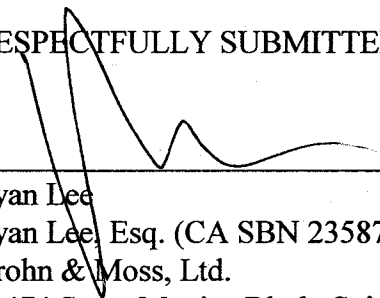
17. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiff to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

18. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiff to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiff respectfully requests judgment be entered against Defendant for the following:

19. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);
20. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);
21. All court costs, witness fees and other fees incurred; and
22. Any other relief that this Honorable Court deems appropriate.

RESPECTFULLY SUBMITTED,



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